



MITCHELL SILBERBERG & KNUPP LLP  
A LAW PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

Eleanor M. Lackman  
Partner  
(212) 878-4890 Phone  
eml@msk.com

April 19, 2023

**VIA ECF**

The Honorable Mary Kay Vyskocil, U.S.D.J.  
United States District Court  
Southern District of New York  
500 Pearl Street, Room 2230  
New York, New York 10007

Re: ***Penske Media Corp. v. Shutterstock, Inc.*, 20-cv-4583 (MKV);**  
**Letter Motion to Seal**

---

Dear Judge Vyskocil:

We are counsel for defendant-counterclaim plaintiff Shutterstock, Inc. (“Shutterstock”) in the above-referenced action. In accordance with Section 9.B of Your Honor’s Individual Rules, the Court’s Standing Order 19-mc-00583, and ECF Rules & Instructions Section 6, we respectfully submit this letter to request that the Court seal the unredacted version of certain exhibits submitted in support of Shutterstock’s Opposition to plaintiff-counterclaim defendant Penske Media Corporation’s (“PMC”) Motion for Partial Summary Judgment, including, in particular, Exhibits B-E to the Declaration of Benjamin Melvin (“Melvin Exhibits”) and Exhibit D to the Declaration of Eleanor M. Lackman (“Lackman Exhibits”).

**Melvin Exhibits B-E:** Shutterstock seeks leave to file Melvin Exhibits B-E under seal because they contain detailed confidential business information from both parties, including information regarding the credentials and access obtained and/or utilized by Shutterstock and/or PMC to attend and photograph thousands of third-party events. PMC produced these documents and designated them confidential pursuant to the Protective Order. (Notably, Shutterstock produced similar documents and designated them confidential and/or attorneys’ eyes only.) Accordingly, Shutterstock respectfully requests that the Court grant its request to file Melvin Exhibits B-E under seal. *See Kewazinga Corp. v. Microsoft Corp.*, No. 18 Civ. 4500 (GHW), 2021 WL 1222122, at \*6 (S.D.N.Y. Mar. 31, 2021) (“[C]onfidential ‘commercial information’ of a business . . . has been recognized repeatedly as a proper subject for sealing.”) (citation omitted); *News Corp. v. CB Neptune Holdings, LLC*, No. 21 Civ. 04610 (VSB), 2021 WL 3409663, at \*2 (S.D.N.Y. Aug. 4, 2021) (“Courts in this District also routinely seal documents to prevent the disclosure of confidential business information.”) (collecting cases).

**Lackman Exhibit D:** Shutterstock seeks leave to file a redacted version of Lackman Exhibit D based on the common interest and joint defense privileges, as it contains email communications among Shutterstock’s in-house counsel at the time, PMC’s in-house counsel, and a PMC employee regarding a copyright infringement claim asserted against PMC by a photographer. Shutterstock has publicly filed Lackman Exhibit D with proposed redactions, which are narrowly tailored to protect the privileged material, and has filed a corresponding highlighted version under seal.



---

The Honorable Mary Kay Viskocil, U.S.D.J.  
April 19, 2023  
Page 2

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "E. Lackman", written over a horizontal line.

Eleanor M. Lackman